

# In the Indiana Supreme Court

CAUSE NUMBER: 94S00-0809-MS-

## ORDER AMENDING ADMINISTRATIVE RULES

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rules 1, 2, 8, 9, and 14 of the *Indiana Administrative Rules* are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

### INDIANA ADMINISTRATIVE RULES

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#### **Rule 1. Preparation and Filing of Statistical Reports**

- (A) **Preparation of Forms.** The Division of State Court Administration (Division), pursuant to these rules and IC 33-24-6-3, shall draft forms to be used in the gathering of statistical data and other information and shall submit the proposed forms to the Supreme Court for approval. After the Supreme Court approves the forms the Division shall distribute the forms to all courts to be used in preparation of reports.
- (B) **Quarterly Case Status Reports.**
- (1) All trial courts shall prepare quarterly case status reports, on forms approved under the provisions of Administrative Rule 1(A), concerning the judicial work of their respective courts. The last day of the reporting period for the quarterly case status reports shall be March 31, June 30, September 30, and December 31.
  - (2) The judge of the trial court may require clerks, court reporters, or any other officer or employee of the court to furnish the information needed to prepare the reports.
  - (3) The judge of the trial court shall cause the quarterly case status reports to be filed with the Division no later than ten (10) calendar days after the end of the reporting period in electronic format as established by the Division.
  - (4) The clerk shall assign one case number to ~~Each~~ defendant charged with one or more offenses or violations arising out of the same incident or multiple incidents to be tried as one case ~~shall be assigned one case number~~, regardless of the number of counts or citations charged against the defendant. The case shall be designated as a MR – Murder, FA – Class A Felony, FB – Class B Felony, FC – Class C Felony, FD - Class D Felony, CM - Criminal Misdemeanor, MC - Miscellaneous Criminal, IF - Infraction, OV - Local Ordinance Violation, or OE - Exempted Ordinance Violation

and shall be counted as one case on the quarterly case status report. When the defendant is charged with multiple charges involving different case type categories, the case number shall be designated so as to reflect only the most serious charge. This method of assigning case numbers is intended for administrative purposes only.

- (5) The clerk shall assign a separate case number to each juvenile who is the subject of a Juvenile CHINS - JC, Juvenile Delinquency - JD, Juvenile Status - JS, Juvenile Termination of Parental Rights - JT, Juvenile Paternity - JP and Juvenile Miscellaneous – JM case, for all events and conduct that arise out of the same incident. Each juvenile case number shall be counted as a case on the court's quarterly case status reports. This method of assigning case numbers is intended for administrative purposes and does not affect the court's ability to try related cases and juveniles as one or the court's ability to waive multiple court costs in related cases.

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## **Rule 2. Reporting Fiscal Matters**

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- (C) **Report of Judge.** The judge of the trial court or the chief judge of a unified court system shall cause the fiscal reports to be filed with the Division no later than twenty (20) days after the end of the calendar year for the reporting period in electronic format as established by the Division.

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## **Rule 8. Uniform Case Numbering System**

- (A) **Application.** All trial courts in the State of Indiana shall use the uniform case numbering system as set forth under this rule.

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The third character in the first group shall represent the court of filing employing the following code:

- C Circuit Court
- D Superior Court
- E County Court
- F Superior Municipal Division
- G Superior Court/ Criminal Division
- H City Court
- I Town Court
- J Probate Court
- K Township Small Claims Court

The last two characters of the first group shall distinguish between courts in counties having more than one court of a specific type. The following code sets forth the county and court identifier for all courts:

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24C01 Franklin Circuit 1  
24C02 Franklin Circuit Court 2  
25C01 Fulton Circuit Court  
25D01 Fulton Superior Court  
25E01 Fulton County Court (abolished)

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48C01 Madison Circuit Court  
48D01 Madison Superior Court 1  
48D02 Madison Superior Court 2  
48D03 Madison Superior Court 3  
48D04 Madison Superior Court 4 (effective January 1, 2009, formerly Madison County Court 1)  
48D05 Madison Superior Court 5 (effective January 1, 2009, formerly Madison County Court 2)  
48E01 Madison County Court 1 (abolished effective January 1, 2009)  
48E02 Madison County Court 2 (abolished effective January 1, 2009)  
48H01 Madison/Alexandria City Court  
48H02 Madison/Anderson City Court  
48H03 Madison/Elwood City Court  
48I01 Madison/Edgewood Town Court  
48I02 Madison/Pendleton Town Court

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49C01 Marion Circuit Court  
49D01 Marion Superior Court, Civil Division 1  
49D02 Marion Superior Court, Civil Division 2  
49D03 Marion Superior Court, Civil Division 3  
49D04 Marion Superior Court, Civil Division 4  
49D05 Marion Superior Court, Civil Division 5  
49D06 Marion Superior Court, Civil Division 6  
49D07 Marion Superior Court, Civil Division 7  
49D08 Marion Superior Court, Probate Division  
49D09 Marion Superior Court, Juvenile Division  
49D10 Marion Superior Court, Civil Division 10  
49D11 Marion Superior Court, Civil Division 11  
49D12 Marion Superior Court, Civil Division 12  
49D13 Marion Superior Court, Civil Division 13  
49D14 Marion Superior Court, Civil Division 14  
49F07 Marion Superior Court, Criminal Division 7

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52C01 Miami Circuit Court  
52D01 Miami Superior Court 1

52D02 Miami Superior Court 2

52H01 Miami/Peru City Court

52I01 Miami/Bunker Hill Town Court

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58C01 Ohio Circuit Court

58D01 Ohio Superior Court (abolished effective January 1, 2009)

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64C01 Porter Circuit Court

64D01 Porter Superior Court 1

64D02 Porter Superior Court 2

64D03 Porter Superior Court 3

64D04 Porter Superior Court 4

64D05 Porter Superior Court 5 (Circuit Judge)

64D06 Porter Superior Court 6

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78C01 Switzerland Circuit Court

78D01 Switzerland Superior Court (abolished effective January 1, 2009)

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(3) *Case Type*. The third group of two characters shall designate the type of proceeding utilizing the following case classification code:

MR – Murder

CF- Criminal Felony (New CF case numbers shall not be issued after 12/31/2001. CF cases filed prior to 1/1/2002 shall continue to bear the CF case type designation.

FA -- Class A Felony

FB – Class B Felony

FC – Class C Felony

FD – Class D Felony

PC – Post Conviction Relief Petition

CM – Criminal Misdemeanor

MC – Miscellaneous Criminal

IF – Infraction

OV – Local Ordinance Violation

OE – Exempted Ordinance Violation

CT- Civil Tort

CP -Civil Plenary (New CP case numbers shall not be issued after 12/31/2001. CP cases filed before 1/1/2002 shall continue to bear the CP case type.)

PL- Civil Plenary (Civil Plenary cases filed after 1/1/2002- All Civil cases except those otherwise specifically designated.)

CC – Civil Collection

MF – Mortgage Foreclosure  
MI – Miscellaneous (Civil cases other than those specifically identified – i.e. change of name, appointment of appraisers, marriage waivers, etc.)  
CB – Court business record – i.e. court orders that refer to non-case matters such as the appointment of judge pro tem, drawing the jury, etc.  
RS – Reciprocal Support  
SC – Small Claims  
DR – Domestic Relation (Includes Dissolution of Marriage, Annulment, and Legal Separation)  
MH – Mental Health  
AD – Adoption  
ES – Estate, Supervised  
EU – Estate, Unsupervised  
EM - Estate, Miscellaneous  
GU – Guardianship  
TR – Trust  
JC – Juvenile CHINS  
JD – Juvenile Delinquency  
JS – Juvenile Status  
JT – Juvenile Termination of Parental Rights  
JP – Juvenile Paternity  
JM – Juvenile Miscellaneous  
PO – ~~Protective Order~~ Order of Protection

Separate dockets need not be maintained for each type.

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## **Rule 9. Access to Court Records**

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### **(D) General Access Rule.**

(4) A court may manage access to audio and video recordings of its proceedings to the extent appropriate to avoid substantial interference with the resources or normal operation of the court and to comply with the Code of Judicial Conduct, Canon 2 Rule 2.17.

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## **Rule 14. Use of Telephone and Audiovisual Telecommunication ~~Audio/Video Telecommunication in Criminal, Juvenile, Mental Health, and Civil Proceedings~~**

**(A) Authority.** A trial court may, in its discretion, use telephone or audiovisual telecommunication ~~conduct hearings and proceedings utilizing audio/video telecommunications~~ pursuant to the provisions of this rule as follows ~~in the following circumstances~~:

(1) A trial court may use telephone or audiovisual telecommunication to conduct:

(a) Pre-trial conferences;

- (b) Proceedings where only the attorneys are present;
- (c) Proceedings during a declared emergency under Ind. Administrative Rule 17; and,
- (d) Proceedings where a party or witness is unavailable due to quarantine.
- (2) A trial court may use audiovisual telecommunication to conduct:  
~~In criminal proceedings, a court may utilize video telecommunications in conducting:~~
  - ~~(a) Initial hearings pursuant to IC 35-33-7-1, 3, 3.5, 4 and 5, including any probable cause hearing pursuant to IC 35-33-7-2; determination of indigence and assignment of counsel pursuant to IC 35-33-7-6; amount and conditions of bail pursuant to IC 35-33-7-5(4), 35-33-8-3.1 and 4; and the setting of omnibus date pursuant to IC 35-36-8-1;~~
  - ~~(b) Pre-trial conferences;~~
  - ~~(c) The taking of a plea of guilty to a misdemeanor charge, pursuant to IC 35-35-1-2;~~
  - ~~(d) Sentencing hearings pursuant to IC 35-38-1-2 when the defendant has given a written waiver of his or her right to be present in person, and the prosecution has consented;~~
  - ~~(e) Post-conviction hearings pursuant to Ind. Post-Conviction Rule 1(5). With the written consent of the parties, post-conviction hearings pursuant to Ind. Post-Conviction Rule 1(5);~~
- ~~(2) In mental health proceedings, a court may utilize video telecommunications in conducting:~~
  - ~~(a) Preliminary hearings in mental health emergency detention proceedings pursuant to IC 12-26-5-10;~~
  - ~~(b) Review hearings in mental health commitment proceedings pursuant to IC 12-26-15-2;~~
- ~~(3) In juvenile proceedings a court may utilize video telecommunications:~~
  - ~~(a) When a child is alleged to be a delinquent child, for a detention hearing pursuant to IC 31-37-6 or a periodic review hearing pursuant to IC 31-37-20-2; and~~
  - ~~(b) When a child is alleged to be a child in need of service, for a detention hearing pursuant to IC 31-34-5 or a periodic review hearing pursuant to IC 31-34-21-2;~~
- ~~(4) In civil proceedings, witness testimony may be presented by audio/video telecommunications when the parties consent;~~
- ~~(5) During a declared emergency under Ind. Administrative Rule 17; and~~
- ~~(6) In any other hearing or proceeding in which the parties waive their rights of appearance. All such waivers shall be entered on the Chronological Case Summary.~~

**(B) Other Proceedings.** In addition, in any conference, hearing or proceeding not specifically enumerated in Section (A) of this rule, with the exception of criminal proceedings involving the right of confrontation or the right to be present, a trial court may use telephone or audiovisual communications subject to:

- (1) the written consent of all the parties, entered on the Chronological Case Summary; or
- (2) upon a trial court's finding of good cause, upon its own motion or upon the motion of a party. The following factors shall be considered in determining "good cause":
  - (a) Whether, after due diligence, the party has been unable to procure the physical presence of the witness;
  - (b) Whether effective cross-examination of the witness is possible, considering the availability of documents and exhibits to counsel and the witness;
  - (c) The complexity of the proceedings and the importance of the offered testimony in relation to the convenience to the party and the proposed witness;

- (d) The importance of presenting the testimony of the witness in open court, where the fact finder may observe the demeanor of the witness and impress upon the witness the duty to testify truthfully;
- (e) Whether undue surprise or unfair prejudice would result; and
- (f) Any other factors a trial court may determine to be relevant in an individual case.
- (3) A party or a trial court if it is acting on its own motion must give notice of the motion to use telephone or audiovisual telecommunication as follows:
- (a) Any motion for testimony to be presented by telephone or audiovisual telecommunication shall be served not less than thirty (30) days before the time specified for hearing of such testimony;
- (b) Opposition to a motion for testimony to be presented by telephone or audiovisual telecommunication shall be made by written objection within seven (7) days after service;
- (c) A trial court may hold an expedited hearing no later than ten (10) days before the scheduled hearing of such testimony to determine if good cause has been shown to present testimony by telephone or audiovisual telecommunication;
- (d) A trial court shall make written findings of fact and conclusions of law within its order on the motion for testimony to be presented by telephone or audiovisual telecommunication; and,
- (e) For cause found, a trial court may alter the time deadlines set forth in paragraphs (a) through (c) upon motion made prior to the expiration of the time for the required action.

**(BC) Facilities and Equipment.** During any hearing or proceeding conducted under this rule, the court shall assure that:

- (1) The facility and equipment enable counsel to be present personally with the out of court party and be able to confer privately with such party outside the reach of the camera and audio microphone. Mental health care providers, employees of the Indiana Family and Social Services Administration and its county offices of Family and Children, and county probation officers who appear as witnesses are not parties for the purposes of this section.
- (2) The facility and equipment enable the parties' attorneys to confer with each other off the record.
- (3) When using audiovisual telecommunication, The the judge must be able to view fully the out of court party and counsel, though not necessarily at the same time. The out of court party and counsel must be able to view fully the judge and all attorneys present in the courtroom.
- (4) The facility must have the capacity, through video equipment or through facsimile or E mail, for the contemporaneous transmission of documents and exhibits.
- (5) When using audiovisual telecommunication, Images images shall be in color; monitor screens shall be no smaller than twenty-five (25) inches.
- (6) When using telephonic or audiovisual transmission, such The audio and video transmission shall be of such quality, design and architecture as to allow easy listening and/or public viewing of all public proceedings. The use of telephonic or audiovisual video technology in conducting hearings and proceedings shall in no way abridge any right that the public may have to access to the courtroom and or jail.
- (7) A trial court may apply to the Indiana Supreme Court, through the Division of State Court Administration, for approval of a plan that uses alternative procedures and technology that meet the intent and objective of this rule.

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These amendments shall take effect January 1, 2009.

The Clerk of this Court is directed to forward a copy of this Order to the Clerk of each Circuit Court in the State of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this \_\_\_\_\_ day of September, 2008.

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Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.